

1 BRIAN H GETZ, ESQ. (CSBN 85593)
2 LAW OFFICES OF BRIAN H GETZ
3 44 Montgomery Street, Suite 3850
4 San Francisco, CA 94104
5 Telephone: (415) 912-5886
Facsimile: (415) 438-2655

6 Attorney for Defendant
7 LUKE BRUGNARA

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

v.

15 LUKE BRUGNARA,

16 Defendant.

17 } Case No. CR 08-0222-WHA
18 } RESPONSE TO THE ADDENDUM TO
19 } THE PRESENTENCE REPORT FILED BY
20 } THE FEDERAL PROBATION OFFICER
21 }
22 } SENTENCING DATE: May 24, 2010
23 } TIME: 10:00 a.m.
24 } COURTRoom: 9, 19th Floor

25 INTRODUCTION

26 While it appeared that no further filings would be necessary in this matter, the recent
27 submission by the Probation Department under cover on May 11th deserves a few words.

28 OFFERING THE FALL 2008 CONDUCT AS
CRIMINAL CONDUCT DISTORTS THE ISSUE

Intemperate outbursts are mischaracterized as criminal conduct. This is an unfair method
of character assassination.

No criminal case ever emerged from the events of fall 2008 in connection with the
Request for Orders to Stop Harassment.

If a charge of disturbing the peace had been brought under Penal Code 415(2), or if a

1 charge of using offensive words as defined by Penal Code 415(3) were filed, or if a charge of
2 assault under Penal Code 240 or 241 had ever existed, there might be grounds for asserting
3 criminal conduct by Mr. Brugnara. No such charges ever were lodged.

4 Mr. Brugnara is unpopular. He has offended many. What Defendant did at St. Vincent de
5 Paul School is not the type of behavior engaged in by the better elements of society. Still, it did
6 not rise to the level of criminal conduct, and should not be characterized as such. If Mr. Brugnara
7 were charged with forcible felonies instead of tax fraud, these events would not even be
admissible as uncharged conduct under Rule 404(b).

8 CONCLUSION

9 Before becoming President, Abraham Lincoln was a nationally known trial lawyer
10 handling both civil and criminal cases. In arguing a case, he once asked a Judge how many legs a
11 dog has if we call the tail a leg. When the Judge answered "five," Lincoln stated that the correct
12 answer was "four," since calling a tail a leg does not make it so.

13 Calling these events criminal does not make it so.

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17 Dated: May 21, 2010

Respectfully submitted,

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19 LAW OFFICES OF BRIAN H GETZ

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/s/
21 Brian H Getz
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